

Original
1 of 29 pages

JIMMIE STEPHEN
#C-56483 / A-1149
PO BOX 8101
SAN LUIS OBISPO, CA 93409-0001

FILED

2008 SEP -5 PM 2: 48

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY RN DEPUTY

COURT of UNITED STATES
STATE of CALIFORNIA-SOUTHERN

NUNC PRO TUNC

SEP -8 2008

CASE # 08-0749-BTM

JIMMIE STEPHEN
Plaintiff

"IMMEDIATE DANGER EXILETION"

28 USC 1915-6..

"ALL ISSUES"

A. "Farrow v West" 320 F.3d 1235
(11th 2008)..

B. "Nbo v Woodford" 126 S.Ct 2378
(2006)..

with: likelihood of PHYSICAL INJURY
of "SERIOUS" COMPLAINTS "DRAINING"

"Bendo"

ET AL Defendants

Plaintiff hereby REQUEST to "FILE" 28 USC 1915-6
"IMMEDIATE DANGER EXILETION" WHEREAS WILLFUL "ABUSE" HAS
"DELAYED" filing in "FORMA - DURETUS" in this matter "AIN A SUTHERLAND"

A. "NEEDAL" OF NEEDLES. PARTIALS for "36 months" (EX #1)
B. "MISCONDUCT" AS PATTERN SINCE 8-9-05 onwards..
C. "ABUSE" OF NIVATION. ORIGINATE by COURT RULINGS..
AS PATTERN by USICS.. (EXHIBIT #4) (PAGE 20-28.)
"BIGGS v TERTUNE" 334 F.3d 910 (9th 2004) NO PROCESS..

CR EXHIBIT # 1-4..

EXHIBITS 1-4..

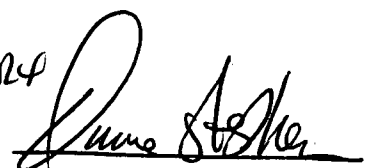
PAGE # 3-29..

"IMMEDIATE DANGER EXTORTION"28 USC 1915-6
IMMEDIATE DANGER CASE..UNDER "28 USC 1915-6" FORMER PRISONERS "MUST" BE
"COMPTED" forthwith.. at "LIKELIHOOD OF SERIOUS INJURIES"..1.. "NEUTURES." "Partials" willfully DENIED SINCE 5-1-05
ONGOING AS OF 8-27-08.. NO ANNUAL CHECKUPS.. AS OF
7-2008.. STOPS willful.. (EXHIBIT #1) Ongoing. "PAIN SUFFERING"
PAGE # 3-15..2.. "Pattern of MISCONDUCT" by CNCR and Courts
DENIAL of MEDICAL.. (EXHIBIT #34) "LIKELIHOOD OF PHYSICAL INJURY"..
(36 months DELAY) .. (PAGE # 25-28) "ARLEY J. MILWORTH" 147, f3d, 715 (8th 1998)..
20-243.. "MISCONDUCT" willful "DELAY" of CRIMINAL for
ACCESS to COURT.. OF 8-9-05 "DISMISSED" 6-2-08.. 3 YEARS LATER..
(EXHIBIT #31) "ARLEY J. MILWORTH" 147, f3d, 715 (8th 1998) KNOWN ENEMIES..
PAGE # 20-24.. to "SUPPORT" (EXHIBIT #2) PAGE # 16-19..(EX #1) "FARROW J. WEST" 320, f3d 1235 (11th 2003). DELAY NEUTURES..(EX #231) "JBO J. WOODHURST" 126, SGT 2378 (2006).. DELAY CRIMINAL..(EX #4) "PRATT J. ROWLAND" 65, f3d, 802-6 (9th 1995).. MISCONDUCT"RELIEF REQUESTED"1.. "Genuine" forthwith "IMMEDIATE DANGER EXTORTION" UNDER
28 USC 1915-6. Ongoing MISCONDUCT..2.. "and other RELIEF" by this COURT..
"ALL ISSUES"..

DATE 8-27-08

TRUST AGAINST FRAUD OR DECEIT

SIGNATURE



EXHIBIT[#] 1

PAGE[#] 3-15..

COPY of ongoing DENIAL of MEDICAL
DENIAL to Support "IMMINENT DANGER
EXCEPTION".. "Partial" DENIAL for 36 months
ongoing "No ANNUAL" GWA in July 2008..

"FARROW J WEST" 320.f3D, 1235/11th 2003).

DELIBERATE INDIFFERENCE and "IMMINENT DANGER
EXCEPTION" for DENIAL DENIALS for "15 months..

EXHIBIT[#] 2 - MISCONDUCT at 10-406 & 8-8-09..

EXHIBIT[#] 3 - MISCONDUCT at 8-8-09.. ongoing..

EXHIBIT[#] 4 - MISCONDUCT, ABUSE by US/ICS. at 1-11-95. ongoing.

EXHIBITS[#] 1-4 PAGE[#] 3-
29..

EXHIBIT

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : February 8, 2008

To : Charles Antonen
Deputy Attorney General
State of California Department of Justice

Subject: **PRISON LAW OFFICE REQUESTS FOR REVIEW OF PEREZ V. TILTON INMATE CONCERNS RELATING TO INMATE JIMMIE STEPHEN, C-56483**

Pursuant to the Stipulation For Injunctive Relief agreed to in re *Perez v. Tilton, et al.*, the Chief Dental Officer at the California Men's Colony (CMC) has provided the following information in response to the questions asked by Alison Hardy of the Prison Law Office.

1. When did Mr. Stephen last see a dentist regarding the possible need for partials or repair of his teeth? What were the results of this appointment?
Mr. Stephen was examined on January 4, 2008, for a triage appointment in response to a CDCR 7362 request for service that he submitted. This face-to-face examination did not reveal any urgent or emergent issues. Mr. Stephen did not state that his partial is worn or defective. Upon examination of his partial on January 4, 2008, replacement is not indicated. His DPC classification is DPC-3, and not DPC-2, as mistakenly noted in his UHR. As a consequence, Mr. Stephen will be seen in July 2008, his birth month, for his annual examination. His dental needs will be determined and a treatment plan will be developed at that time, if necessary.
2. Please describe Mr. Stephen's current treatment plan.
Mr. Stephen is currently classified DPC-3. His annual examination will be in July 2008, and his dental needs and treatment plan, if needed, will be determined at that time.

Thank you for your assistance in this matter. Please contact Bob Keller at (916) 327-8941, if you have any questions.



RICHARD ROBINSON
Dental Program Project Director
Division of Correctional Health Care Services

cc: Michael Stone, Staff Counsel, Office of Legal Affairs, CDCR
Linda Martinez, D.D.S., Regional Dental Director
Jeri Shepherd, D.D.S., Chief Dental Officer, CMC
Health Care Appeals Coordinator, CMC



Shepherd, Jeri

From: Shepherd, Jeri
Sent: Monday, January 28, 2008 9:31 AM
To: Keller, Robert
Subject: RE: New Para. 17 Ltr - J. Stephen, C-56483 (CMC)

Good morning,

1. When did Mr. Stephen last see a dentist regarding the possible need for partials or repair of his teeth? Mr. Stephen was seen January 4, 2008 for a triage appointment in response to a 7362 submitted by Mr. Stephen. What were the results of this appointment? Mr. Stephen has been on the DPC 2 list for exam and treatment plan. His birthday month is July. His situation has not become urgent or emergent, therefore he continues to remain on the DPC2 list in chronological order.

2. Please describe Mr. Stephen's current treatment plan. At this time he's is on the DPC2 list for exam and treatment plan. We see patients in chronological order of when they submit their 7362. At this time we are only able to accommodate Emergent, 7362 triage appointments, Urgent (DPC1), and annual exams.

Please note: Our dentist to inmate-patient ratio for East Dental Clinic is currently 1:939. We have made room and changed our scheduling to accommodate more dentists so that ratio could be improved. We have been given two more positions but that still will not give us the 1:515 ratio the court has allowed for. We need an additional 3 dentists for both the East and West Clinics.

-----Original Message-----

From: Keller, Robert
Sent: Monday, January 28, 2008 7:23 AM
To: Shepherd, Jeri
Cc: Robinson, Richard; Martinez, Linda
Subject: New Para. 17 Ltr - J. Stephen, C-56483 (CMC)

Hello Dr. Shepherd: Please find attached a new Para. 17 issue received from the PLO in re Inmate Stephen.


Please provide your reply no later than COB February 4, 2008.
Thank you,

Bob Keller

AHPA
Inmate Dental Services
(916) 445-8951
Fax (916) 327-2476

**CONFIDENTIAL -- ATTORNEY-CLIENT PRIVILEGED
DO NOT FORWARD OR DUPLICATE EXCEPT TO AUTHORIZED STAFF**

1/28/2008





PRISON LAW OFFICE
General Delivery, San Quentin, CA 94964-0001
Telephone (415) 457-9144 • Fax (415) 457-9151
www.prisonlaw.com

Director:
Donald Specter

Staff Attorneys:
Susan Christian
Steven Fama
Rachel Farbiarz
Penny Godbold
Megan Hagler
Alison Hardy ✓
Vibeke Martin
Millard Murphy
Sara Norman
Judith Rosenberg
Zoe Schonfeld
E. Ivan Trujillo

MEMORANDUM

To: Charles Antonen, Deputy Attorney General
From: Alison Hardy/SW
Date: 1/25/2008
Re: *Perez 3* – Individual Inmate Exhausted Dental Concern – Request for Review

Jimmie Stephen, C-56483

CMC

Mr. Stephen has exhausted his administrative remedies on the issue of receiving repair of his teeth (IAB # 0708017, Log # CMC-07-01748).

According to the Second Level's Decision, Mr. Stephen was classified as Priority 2 on 5/8/07. The response goes on to state that Mr. Stephen was triaged for a "new and separate dental issue" on 6/13/07, which was resolved on 6/19/07. The response, which was written on 8/29/07, states that Mr. Stephen "would continue to receive treatment as a DPC 2 patient."

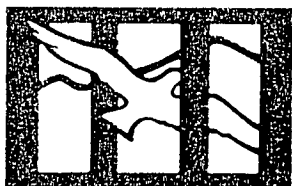
Mr. Stephen writes that he still has not received partials or treatment to repair his teeth.

Please respond to the following:

1. When did Mr. Stephen last see a dentist regarding the possible need for partials or repair of his teeth? What were the results of this appointment?
2. Please describe Mr. Stephen's current treatment plan.

Board of Directors

Penelope Cooper, President • Michele WalkinHawk, Vice President • Marshall Krause, Treasurer
Honorable John Burton • Felecia Gaston • Christiane Hipps • Margaret Johns
Cesar Lagleva • Laura Magnani • Michael Marcum • Ruth Morgan • Dennis Roberts



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Millard Murphy
Sara Norman
Judith Rosenberg
Zoe Schonfeld
E. Ivan Trujillo

2/21/2008

Jimmie Stephen, C-56483
CMC
PO Box 8103
San Luis Obispo, CA 93409

Dear Mr. Stephen.

As you know, we wrote to the Attorney General on 1/25/2008 under procedures set forth in the *Perez* Stipulation to request further information about your dental treatment. The CDCR response to our advocacy letter is enclosed.

Please let us know if the information provided by headquarters is incorrect. Please provide specific information and any documentation you may have showing that their report is not accurate.

We hope that your dental condition has improved by this time. If you continue to have dental concerns, please send us an update on your present condition and we will determine whether we can continue to advocate on your behalf.

We wish you the best.

Sincerely,

Sam Weiner
Litigation Assistant under Alison Hardy

Enclosures: CDCR Response

Board of Directors

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REFUSAL OF EXAMINATION AND / OR TREATMENT

PATIENT NAME (TYPE OR PRINT CLEARLY)

CDC NUMBER

INSTITUTION

Stephen

C 56483

Cmc-E

Having been fully informed of the risks and possible consequences involved in refusal of the examination and/or treatment in the manner and time prescribed for me, I nevertheless refuse to accept such examination and/or treatment. I agree to hold the Department of Corrections, the staff of the medical department and the institution free of any responsibility for injury or complications that may result from my refusal of this examination and/or treatment, specifically:

Describe the examination and/or treatment refused as well as the risks and benefit of the intervention:

Pt. Refuses 1130 Dental bridge Prost.
 Pt knows he is on Dr. Hoxie's list for
 partials and knows he needs to wait his
 turn.

PATIENT SIGNATURE

DATE

12/4/07



PATIENT REFUSES TO SIGN

DATE

WITNESS

NAME OF WITNESS (PRINT/TYPE)

Hoxie, B. DDS

NAME OF WITNESS (PRINT/TYPE)

g. Mac Donald

WITNESS SIGNATURE

California Men's Colony

DATE

WITNESS SIGNATURE

g. Mac Donald

DATE

12/4/07

REFUSAL OF EXAMINATION AND / OR TREATMENT

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

Stephen

C 56483

STATE OF CALIFORNIA
 SUPPLEMENTAL TO DENTAL PROGRESS NOTES
 CDCR 237-C-1 (Rev. 04/06)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 1 of 2

Prior to each treatment, the Dentist *must* review the inmate-patient's health history, note changes or specify no change, and use S.O.A.P.E. format when applicable.

DATE OF ACTION (month/day/year)	TOOTH NUMBER	PROGRESS NOTES (include signature at the end of each data entry)	PRIORITY AFTER VISIT	PRISON LOCATION (ACRONYM)
6/13/07	602	E: discussed w/PT new priority system. NV: #18 SSC. <i>[Signature]</i> Hoxie, B. DDS California Men's Colony	2	CMCE
6/19/07	18 0700	S: no changes O/A: #18 diag for SSC. P: 3 day 2 1/2 hr 1:00, 0700 Prep #18 + cement SSC w/ Hoxie cement NV: Exam (DPII-504) <i>[Signature]</i> Hoxie, B. DDS California Men's Colony	2	CMCE
8/23/07	602	appeal Murphy, M., DDS California Men's Colony Carvalho, D., DDS California Men's Colony <i>[Signature]</i>	2	CMCE
12/4/07	18 1300	S: no change. PT complaining because he has not been treated. O/A/P: PT is on DP2 list and is informed E: ECA. NV: Exam <i>[Signature]</i> Hoxie, B. DDS California Men's Colony	2	CMCE

DRUG ALLERGIES?

☒ NO☐ YES

SUPPLEMENT TO DENTAL PROGRESS
 NOTES

NAME (LAST, FIRST, MI), CDCR NUMBER, AND DATE OF BIRTH

Stephen
 C56483

9

[Signature]

STATE OF CALIFORNIA
SUPPLEMENTAL TO DENTAL PROGRESS NOTES
 CDCR 237-C-1 (Rev. 04/06)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 1 of 2

Prior to each treatment, the Dentist *must* review the inmate-patient's health history, note changes or specify no change, and use S.O.A.P.E. format when applicable.

DATE OF ACTION (month/day/year)		TOOTH NUMBER	PROGRESS NOTES (include signature at the end of each data entry)	PRIORITY AFTER VISIT	PRISON LOCATION (ACRONYM)
5	8	07	Triage 1430 S: PT requesting Exam for Tx + pasties. O: PT missing mult teeth. RMH: HBP, Poor OHC. Pan O. A/P: Educate for Exam and Tx. E: Recommend TP for sens teeth to reduce root hypersensitivity. NV: Exam. Hoxie, B. DDS California Men's Colony		
6	13	07	Triage 0915 S: LL broken molar Sens when eating hot not lingering. O: #18 has broken DB WAF. No caries detected. Cold test +. PA shows no obvious apical pathology. A: #18 is vital and needs SSC. P: NV: #18 SSC.	2	CMC

DRUG ALLERGIES?

☒ NO☐ YES

SUPPLEMENT TO DENTAL PROGRESS NOTES

NAME (LAST, FIRST, MI), CDCR NUMBER, AND DATE OF BIRTH

Stephen

C 56483

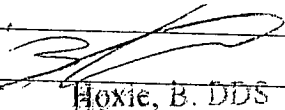
10

STATE OF CALIFORNIA
SUPPLEMENTAL TO DENTAL PROGRESS NOTES
CDCR 237-C-1 (Rev. 04/06)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 1 of 2

Prior to each treatment, the Dentist *must* review the inmate-patient's health history, note changes or specify no change, and use S.O.A.P.E. format when applicable.

DATE OF ACTION (month/day/year)			TOOTH NUMBER	PROGRESS NOTES (include signature at the end of each data entry)	PRIORITY AFTER VISIT	PRISON LOCATION (ACRONYM)
1	4	08	Cont.	<p>P: PT is on DPC 2 list and will be TX as since BH as we are able to accommodate DPC 2 patients. PT stated "You wake me up for a 0630 drsct to tell me that, I'm going to get the Prison Rev Office down here."</p> <p>E: I have communicated as clearly as I can with patient. If he cont. to submit 7302s for same request, I will resort to administrative measures.</p> <p>NV: </p> <p>Hoxie, B. DDS California Men's Colony</p>	2	CMCE

DRUG ALLERGIES?

☒ NO ☐ YES

SUPPLEMENT TO DENTAL PROGRESS
NOTES

NAME (LAST, FIRST, MI), CDCR NUMBER, AND DATE OF BIRTH

Stephen

C56483

11

3

STATE OF CALIFORNIA
CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☐ MENTAL HEALTH ☐ DENTAL ☒ MEDICATION REFILL ☐

NAME <u>Jimmie Stephen</u>	CDC NUMBER <u>C56483</u>	HOUSING <u>A-1149</u>
PATIENT SIGNATURE <u>Jimmie Stephen</u>		DATE <u>12-30-07</u>

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem)

(1) DENTAL FRONT TOOTH (A47), DISLOCATION, LOOSE
OUT OF PLACE, IMPEDES PEOPLE EATING ETC.(2) PARTIALS OVER 120 DAYS SINCE REQUEST
(3) ANY RELIEF.

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

PART II: TO BE COMPLETED BY THE TRIAGE REGISTERED NURSE

Date / Time Received: <u>12/30/07</u>	Received by: <u>R. Reynolds</u>
Date / Time Reviewed by RN: <u>R. Reynolds</u>	Reviewed by: <u>R. Reynolds</u>
S: <u>Pain Scale: 1 2 3 4 5 6 7 8 9 10</u>	

O: T: P: R: BP: WEIGHT:

A:

P:

☐ See Nursing Encounter Form

12-31-07A09:51 RCVD

Triage (2) BT

E:

NV: from for partials

01-04-08 07:27 OUT

APPOINTMENT SCHEDULED AS:	EMERGENCY (IMMEDIATELY) <input type="checkbox"/>	URGENT (WITHIN 24 HOURS) <input type="checkbox"/>	ROUTINE (WITHIN 14 CALENDAR DAYS) <input type="checkbox"/>
---------------------------	--	---	--

REFERRED TO PCP:

DATE OF APPOINTMENT:

COMPLETED BY

NAME OF INSTITUTION

PRINT / STAMP NAME

SIGNATURE / TITLE

DATE/TIME COMPLETED

CDC 7362 (Rev. 03/04)

Original - Unit Health Record

Yellow - Inmate (if copayment applicable)

Pink - Inmate Trust Office (if copayment applicable)

Gold - Inmate

12

8471

STATE OF CALIFORNIA
CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☐ MENTAL HEALTH ☐ DENTAL ☒ MEDICATION REFILL ☐NAME: Timmie Stephen CDC NUMBER: C56483 HOUSING: A-1149PATIENT SIGNATURE: [Signature] DATE: 11-23-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem)

I try to get "Partials" since 5-1-05
and these dentists under federal jurisdiction are
lets the same before federal mediation just a
tactic for self-gain & profit. 18 USC 1961-68. violation

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

PART II: TO BE COMPLETED BY THE TRIAGE REGISTERED NURSE

Date / Time Received: 11/25/07 Received by: [Signature]Date / Time Reviewed by RN: [Signature] Reviewed by: [Signature]

S: Pain Scale: 1 2 3 4 5 6 7 8 9 10

11-26-07 12:12 RCVD

(2)

O: T: P: R: BP: WEIGHT:

A: [Signature] BHP: [Signature]☐ See Nursing Encounter FormE: Triage DP 2 BH
NV: 4 am for P/P
12-04-07 P01:00 OUTAPPOINTMENT SCHEDULED AS: EMERGENCY (IMMEDIATELY) ☐ URGENT (WITHIN 24 HOURS) ☐ ROUTINE (WITHIN 14 CALENDAR DAYS) ☐

REFERRED TO PCP: COMPLETED BY: DATE OF APPOINTMENT: NAME OF INSTITUTION:

PRINT / STAMP NAME: SIGNATURE / TITLE: DATE/TIME COMPLETED: 11/23/07

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☐ MENTAL HEALTH ☐ DENTAL ☒ MEDICATION REFILL ☐

NAME: Jimmie Steffen CDC NUMBER: C56483 HOUSING: A-1149

PATIENT SIGNATURE: [Signature] DATE: 6-8-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem)

Request for Emergency Dental
Already priority # - forgot dentist name

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

PART II: TO BE COMPLETED BY THE TRIAGE REGISTERED NURSE

Date / Time Received: 6/9/07 1000 Received by: [Signature]
Date / Time Reviewed by RN: 6/9/07 1040 Reviewed by: [Signature]
S: Pain Scale: 1 2 3 4 5 6 7 8 9 10

05-11-07 07:42 RCVD KC

O: T: P: R: BP: WEIGHT: 151 1
A: Triage 2 151
P: 06-13-07 09:25 OUT
NV #18 SSC

☐ See Nursing Encounter Form

E:

APPOINTMENT SCHEDULED AS: EMERGENCY (IMMEDIATELY) ☐ URGENT (WITHIN 24 HOURS) ☐ ROUTINE (WITHIN 14 CALENDAR DAYS) ☐

REFERRED TO PCP: COMPLETED BY: DATE OF APPOINTMENT: NAME OF INSTITUTION:

PRINT / STAMP NAME: Hoxie, B. DDS California Men's Colony SIGNATURE / TITLE: DATE/TIME COMPLETED:

Hoxie 14

HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☐ MENTAL HEALTH ☐ DENTAL ☒ MEDICATION REFILL ☐

NAME: JIMMIE STEPHEN CDC NUMBER: C56483 HOUSING: A-1119-X

PATIENT SIGNATURE: [Signature] DATE: 4-2-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem)

① Request for ongoing "PARTIALS"
NEEDED "TOOTH REPAIRS" Etc.

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

PART II: TO BE COMPLETED BY THE TRIAGE REGISTERED NURSE

Date / Time Received: Received by:

Date / Time Reviewed by RN: Reviewed by:

S: Pain Scale: 1 2 3 4 5 6 7 8 9 10

04-03-07A08:05 RCVD

Myers, C., DDS
California Men's Colony

O: T: P: R: BP: WEIGHT:

See progress notes 5/8/07

A: Hoxie, B. DDS

P: California Men's Colony

☐ See Nursing Encounter Form

05-08-07 P03:05 OUT

E:

APPOINTMENT SCHEDULED AS: EMERGENCY (IMMEDIATELY) ☐ URGENT (WITHIN 24 HOURS) ☐ ROUTINE (WITHIN 14 CALENDAR DAYS) ☐

REFERRED TO PCP: DATE OF APPOINTMENT:

COMPLETED BY: NAME OF INSTITUTION:

PRINT / STAMP NAME: SIGNATURE / TITLE: DATE/TIME COMPLETED:

HOXIE

15

EXHIBIT [#] 2

PATTERN of MISCONDUCT AS to "Integration"
of RILLS AS ON 10-4-06 WILLFULLY
WRITTEN-UP FOR FLOWED UNAPPROVED
POLICE AT DONOVAN..

WITH EVIDENCE of "INELIGIBILITY"
AS WILLFULLY DENIED BY COUNSELOR "OSHIRO"
OF 5-1-08.. ongoing..

"ASHLEY J. NICHOLSON" 147, FBI, 715 (8th 1998)
IMMEDIATE NIMBLE EXCUSE FOR ALLEGATIONS of
PROXIMITY to KNOWN ENEMIES..

AS NICHOLSON KNOWN at STATUS of "RACIAL"
CONVICTION of 6-6-89, RACIAL fight with WEAPONS at
6-12-95 AND CELL fight at 6-13-95 REFLECTS POLICE
of RACIAL Integration AS "INELIGIBLE MET".

Forced in-cell integration coming to California prisons

The Senate Public Safety Committee, chaired by Senator Gloria Romero, D-Los Angeles, recently held a hearing on the California Department of Corrections and Rehabilitation's (CDCR) plans to implement "in-cell integration" at all California male institutions.

In-cell integration is CDCR's response to the U.S. Supreme Court's ruling in *Johnson v. California* (2005) that the Department's unwritten policy of deliberately segregating prisoners by race in double cells for up to 60 days in reception centers and each time they are assigned to a new prison, is unconstitutional.

CDCR justified the practice as necessary in order to alleviate gang violence. The Supreme Court's majority opinion, by Justice Sandra Day O'Connor, faulted the Ninth Circuit Court of Appeals for not applying the standard of "strict scrutiny" when upholding CDCR's practice of segregating by race. Applying "strict scrutiny" requires the government to prove that racial classifications "are narrowly tailored measures that further compelling governmental interests."

Indeed, mandating that prisoners be segregated by race is deplorable and may in fact aggravate racial tensions behind the walls. To our knowledge, no other state penal system does this and neither does the federal government. However, the solution being employed by CDCR is also cause for consternation.

It appears that the Department's proposed remedy goes far beyond what the Supreme Court's ruling requires. CDCR has created a new ranking system to determine a prisoner's suitability for in-cell integration. The rankings range from Racially Eligible (RE), meaning a prisoner can live with members of any race, to Restricted by Refusal (RR), which designates prisoners who are eligible for integrated housing but refuse to participate (see sidebar on page 6). Prisoners who refuse to share a cell with a person of a different race will be subjected to disciplinary actions, including being housed in isolation in Administrative Segregation and/or Security Housing Units.

While it is one thing to stop segregating prisoners by race, it is quite another to force in-cell integration.

In that prisons reflect the values and norms of the larger society, they are microcosms of society, a society that, unfortunately, still self-segregates by race to a significant extent. But prison life is also very different from the social environs most of us take for granted. To the extent that prisoners are allowed to choose their cellmates, choosing with whom to share a 6' x 9' cell, is one of the few choices remaining for a prisoner.

While it is time for California prisons to come out of the Dark Ages, the method employed by CDCR

(Continued on next page)

Male and Female Cellies?

In Johnson case, California was found to be in error when it adopted and implemented correctional policies to segregate inmates based upon race.

The Supreme Court said CDCR may not use factors such as race as an administrative determinant for housing purposes, as it was a violation of equal protection and served no legitimate safety and security purpose.

Equal protection also applies to a number of other characteristics, such as a person's gender (sex). An argument can therefore be made that it is unconstitutional for CDCR to use gender as an administrative determinant in regard to housing placement, because it too is an equal protection element. If it is

illegal to restrict housing according to race, then it is just as illegal to restrict it according to gender (also religion, and so on).

In losing Johnson and subsequently taking action to integrate based upon race, the state has opened the door for challenging other CDCR policies affecting other protected classifications.

If a man and a woman voluntarily want to be cellies (and do whatever else), then that conflicts with no safety or security consideration.

CDCR's policy of restricting male and female prisoners to separate prisons and housing would appear to be an illegal act. They may not use administrative justification to separate men and women, such as "safety and security," and more than they cannot use it to justify segregated housing.

Excuses such as state interest in prohibiting male and female prisoners from having sex with each other are not valid because that restriction was not imposed on anyone as part of their sentence. The punishment is imprisonment and the state has no legal basis for imposing additional penalties such as prohibition of sex after the fact (ex post facto).

For these reasons, since the state is implementing integrated housing, prisoners may consider filing similar petitions to be housed at prisons currently used only to house prisoners of the opposite sex.

The nexus of the argument is that since CDCR is prohibited from using race as an administrative determinant, it is similarly prohibited from using gender. Remember that CDCR has established punitive

Male and Female Cellies (From Pg. 4)

measures (loss of privileges, loss of property, Behavior Modification Units). So, as a remedy, all requests for transfer should include imposition of identical punishment for any staff whose actions of inactions in their official capacity resulted in prisoners being denied housing with members of the opposite sex.

The state has established punishment for prisoners who refuse to house inter-racially. This punishment is now the standard of punishment for any staff who attempts to prevent inter-gender housing as well. Both may be considered constitutional civil rights violations and therefore criminal if imposed upon inmates by staff.

Exhibit[#] 3

PATTERN of MISCONDUCT AS of 6-2-08 After
3 YEARS FALSE WRITE-UP DISMISSED..

EXHIBIT 3

Memorandum

Date: June 2, 2008

To: Stephen, J.
C56483
Richard J. Donovan Correctional Facility

Subject: **SECOND LEVEL APPEAL RESPONSE LOG NO.:RJD 08-0615**

ISSUE:

The appellant is submitting this appeal relative to the Rules Violation Report (RVR), Log # F3-05-410 which was discovered on April 8, 2005. The specific charge and guilty finding was for violating the California Code of Regulations (CCR), Title 15, Section 3005(a), Conduct (Stalking). It is the appellant's position that his due process rights were violated. Specifically, a Modification Order to Re-issue/Re-hear Log # F3-05-410 (10/16/08) was never completed. Based on the above information, the appellant disagrees with the guilty finding.

The appellant's requested remedy is that RVR Log # F3-05-410 is dismissed.

INTERVIEWED BY: K. Guillory, Correctional Lieutenant, on May 29, 2008, at the Second Formal Level of Review.

REGULATIONS: The rules governing this issue are:

CCR 3005(a) Stalking

CCR 3315 Serious Rule Violations

A review of the "Effective Communication List for Inmates with Test of Adult Basic Education Reading Scores of 4.0 or Less" reveals that the appellant does not require assistance in order to achieve effective communication.

The appellant received RVR Log # F3-05-410, for violation of CCR, Title 15, Section 3005(a), Stalking. This charge was classified as a Serious Rule Violation. The inmate received a copy of the RVR on August 16, 2005, within 15 days of the date of discovery.

The appellant appeared at the disciplinary hearing on September 15, 2005, and pled "Not guilty". The inmate is a participant in the Mental Health Services Delivery System at the CCCMS level.

The SHO noted that a Staff Assistant was not assigned in accordance with CCR Section 3315 (d) (2) (A).

The SHO noted an Investigative Employee was not assigned in accordance with 3315 (d) (1) (A) 1, 2, and 3.

STEPHEN, J. C56483
CASE NO. 08-0615
PAGE 2

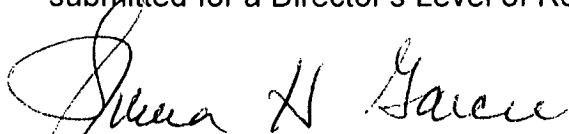
The appellant requested no witnesses.

The SHO found the inmate guilty of the charge of CCR Title 15, Section 3005(a), Stalking, based upon the preponderance of evidence, which consisted of: 1) The Reporting Employee's written report. 2) The I.E. Report which reiterates the statements in the RVR. 3) Appellant's statement during the hearing that the log was his. 4) The Chronological log the appellant maintained dating back to at least 12-25-03, in which he details specific dates when Officer Belton was assigned to Facility 3, his conversations and other interactions with her on those dates, and her response to him or toward him.

There was a due process violation discovered, relative to RVR, Log # F3-05-410, for violation of CCR, Title 15, Section 3005(a), Stalking. Specifically, during the hearing the SHO acknowledged the letter was unavailable, but stated it was not considered as evidence. However, item #1 of the SHO's findings makes direct reference to the letter and its contents as part of the evidence. The appellant received a 2nd level appeal response to Re-issue/Re-hear Appeal Log# F3-05-410. Upon investigation into this matter, it was discovered that the Modification Order was never adhered to. The appellant's request to have RVR dismissed is substantiated.

APPEAL DECISION: The appeal is PARTIALLY GRANTED at the Second Level of Review.

MODIFICATION ORDER: It is ordered that RVR, F3-05-410 be reviewed by CDO and dismissed in the interest of justice. The dismissed RVR shall be processed per policy. RJD staff shall coordinate with CMC-E to ensure the above Modification Order is adhered to. The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.



SILVIA H. GARCIA
Chief Deputy Warden
Richard J. Donovan Correctional Facility

DATE: November 16, 2005

NAME: - - STEPHEN, J.

CDC: C-56483

APPEAL #: 05-1607 SECOND LEVEL REVIEW

APPEAL DECISION: PARTIALLY GRANTED

APPEAL ISSUE: You are appealing a Serious CDC-115 Rules Violation Report (RVR), Log No. F3-05-410, dated August 8, 2005, in which you were found guilty of violating California Code of Regulations (CCR) Title 15, Section 3005(a) Conduct: Stalking. You contend that the charge of Stalking was not substantiated, the Mailroom Supervisor violated procedure by opening an envelope marked "Legal Mail", a conflict of interest existed with the Senior Hearing Officer (SHO) and that you were not provided a copy of the letter intercepted by the Mailroom Supervisor and turned over to the Security and Investigations Unit.

Specifically, you request a "conflict of interest be declared" against the SHO, Correctional Lieutenant R. Shelar and that the RVR be dismissed.

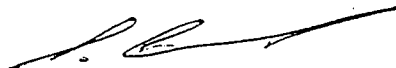
APPEAL RESPONSE: In reaching a decision on this matter, a thorough review of your appeal and the attached documentation was conducted. Applicable sections of the CCR were also reviewed. Additionally, on November 16, 2005, you were interviewed by Lt. D. McMahan regarding your appeal. During the interview you reiterated the statements in your appeal and presented no further evidence or information.

Mr. Stephen, a review of the processing of your CDC-115 indicates all time constraints were met, but there appears to be a due process issue in that you were not provided a copy of the handwritten letter you allegedly wrote to Correctional Officer Belton, which was intercepted by Mailroom Supervisor J. McNeil. During the hearing the SHO acknowledged the letter was unavailable, but stated it was not considered as evidence in the hearing. However, item #1 of the SHO's Findings makes direct reference to the letter and its contents as part of the culpatory evidence. Additionally, the letter is referenced by multiple witnesses in the Investigative Employee's Report and appears to be the key link between you, the log which was subsequently discovered in your cell and the Stalking charge. Therefore, you were entitled to a copy of that letter prior to your hearing.

Your claim that the Mailroom Supervisor violated procedure by opening an envelope marked "Legal Mail" is without merit. The term "Legal Mail" applies to correspondence between inmates and attorneys. The envelope in question was an interdepartmental "U-Save-Em" envelope addressed to a staff member. You also failed to show that a conflict of interest resided in the SHO. Finally, the issue of whether or not the charge of Stalking can be substantiated is moot in that a new hearing will be ordered for the RVR.

STEPHEN, J. #C-56483
Appeal Log #05-1607 -
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Your request that a "conflict of interest be declared" against the SHO and that the RVR be dismissed is denied. However, the RVR is ordered Re-issued/Reheard to comply with due process concerns. Therefore, your appeal is PARTIALLY GRANTED at this Second Level of Review.



S. ARMOSKUS
Chief Deputy Warden

EXHIBIT #4

Code of Prior Untrue & Remanded
on false Ruling by USDC-S.. as
ongoing Pattern..

EXHIBIT 25

FILED

JAN 11 1995

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALSNOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JIMMIE EARL STEPHEN,

Plaintiff-Appellant,

v.

K. W. PRUNTY, Chief Deputy Warden,
et al.,

Defendants-Appellees.

No. 94-56041

D.C. No. CV-94-932-JNK

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Judith N. Keep, Chief Judge, Presiding

Submitted December 19, 1994**

Before: SNEED, D.W. NELSON, and TROTT, Circuit Judges.

Jimmie Stephen, a California state prisoner, appeals pro se the district court's order dismissing on res judicata grounds his 42 U.S.C. § 1983 action alleging medical indifference to serious medical needs. We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand.

In his complaint, Stephen alleged that prison officials and medical staff deprived him of "any and all medical necessities of life by their wrongdoings as to their actions from 3-3-94 and ongoing." The district court dismissed the complaint on res

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a); 9th Cir. R. 34-4.

judicata grounds, finding that the complaint raised issues that had been litigated and decided in a prior action.

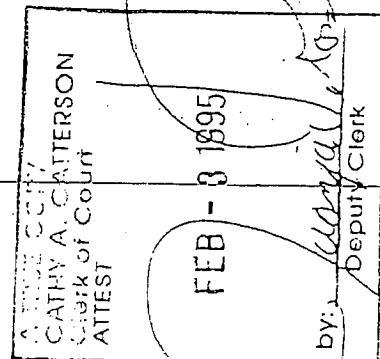
We review de novo the district court's dismissal on res judicata grounds. See Palomar Mobilehome Park Ass'n v. City of San Marcos, 989 F.2d 362, 363 (9th Cir. 1993).

Under the doctrine of res judicata, a final judgment on the merits prevents a plaintiff from relitigating claims that were or could have been litigated in the prior actions. See Nevada v. United States, 463 U.S. 110, 129-30 (1983); Western Systems Inc. v. Ulloa, 958 F.2d 864, 871 (9th Cir. 1992), cert. denied, 113 S. Ct. 970 (1993). The plaintiff also is barred from relitigating issues of law or fact that were actually litigated and necessarily decided in the prior action, whether on the same claim or a different claim. See Duncan v. United States (In re Duncan), 713 F.2d 538, 541 (9th Cir. 1983).

Here, we disagree with the district court that Stephen's complaint raised issues that had been litigated in his previous section 1983 action. Stephen's prior action alleged that prison officials at Calipatria state prison had been deliberately indifferent to his serious medical needs between 1992 and 1993 because they failed to prescribe him specific medications or otherwise failed to properly diagnose and treat his sinus problem. In the present action, Stephen alleges that prison officials at Calipatria state prison have denied him "any and all" medical care since March 1994 in retaliation for Stephen's previous lawsuits against prison officials. Because Stephen's claims in this action involve injuries and wrongs that allegedly occurred subsequent to

the injuries involved in his prior action, the district court erred by dismissing Stephen's action on res judicata grounds. See id.^{1/}

VACATED and REMANDED.



^{1/} We deny Stephen's motion to consolidate this case with Appeal Nos. 94-55626 and 94-55655.

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
Luis Obispo SS

[C.C.P. §§ 446, 2015.5; 28 U.S.C. §1746]

I, Harold C. Carr, am a resident of the State of California and am over the age of eighteen years and am not a party to the above-entitled action. My address is listed below.

On 8-27-08, I served the following documents:

Immediate Dongren Extraction

by placing a true copy thereof enclosed in a sealed envelope with First Class postage thereon fully prepaid in the United States Mail by delivering to prison officials for processing through the Institution's internal legal mail system at ^{U.S. 0044} ~~San Diego~~ California, addressed as follows::

ATTORNEY GENERAL
110 W. A ST #1100
SPRINGFIELD, MA 01101

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed in the County of San Diego, California on 8-27-08 Luis obs po

Uladimir GADIR
P.O. Box 8101

San ~~Brazos~~, CA ~~93409~~
Luis Obispo 93409-8101

Pursuant to the holding of the United States Supreme Court in Houston v. Lack 108 S. Ct. 2379, 487 U.S. 266, 101 L.Ed.2d 245 (1988) and FRAP, Rule 4 (c) inmate legal documents are deemed filed on the date they are delivered to prison staff for processing and mailing via the Institution's internal legal mail procedures.